



## **Frequently Asked Questions**

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#### **What is Unemployment Insurance?**

Unemployment Insurance (UI) is a federal-state program developed and financed through the Federal Unemployment Tax Act (FUTA) and paid by employer's state insurance contributions. Benefits are paid to employees that are unemployed through no fault of their own and allows laid off employees to remain in the area so they will be available for re-employment. The program stabilizes the local and state economy by preventing a sharp drop in consumer spending during periods of unemployment.

#### **Who pays Unemployment Insurance?**

Employers pay quarterly UI contributions once the employer qualification has been met under the IC 22-4-7. You must register with Indiana Department of Workforce Development for an employer account. The employer pays the UI contribution and it is not deducted from the employee's wages.

#### **Who is an Employer?**

An employer is an individual or an organization that pays wages or compensation to an individual in exchange for the performance of services, and subject to the law under a qualifying section of the Indiana Code 22-4-7.

**What is a Reimbursable Employer? What taxes do they pay?**

Non-profit organizations may choose to reimburse the UI Trust Fund for benefit payments. A non-profit organization must meet the criteria defined in the IRS Code, Section 501c-3; provide a copy of the IRS exemption letter and a State Form 1065, Election To Pay Tax Or To Become Liable. Once you qualify as a reimbursable employer you will keep this status for a period of two year, at that time you may elect to become a taxable employer. A reimbursable employer must also file quarterly gross wages on the UC-1, and a UC-5 report.

A reimbursable employer must pay into the UI Trust Fund an amount equal to the benefits charged to your account. You will be charged for all benefits paid to former employees regardless of the reason they left your employment.

**Do I qualify as a Reimbursable Account?**

Indiana employer accounts are set up as either a taxable (or rated) account or as a reimbursable account. Taxable accounts are the most common. Taxable employers are required to pay their contributions (tax) on a quarterly basis. Employers that qualify under 7-2(g) and 7-2(h) have the option to be reimbursable. Reimbursable employers are billed on a monthly basis for any benefit claims charged to their account rather than paying contributions on a quarterly basis. Reimbursable employers must file UC-1 and UC-5 quarterly reports.

**Who is an Employee?**

An employee is an individual who performs a service for a person or organization under a contract of hire. One test applied to determine if an individual is an employee verses an independent contractor is: Does the individual or organization for which the service is performed have the legal right to control the way in which the service is carried out? It is only the right to control that is important; it is not necessary that the control is ever exercised.

**What are Wages?**

Wages consist of all remuneration paid for services performed and encompass salaries, bonuses, commissions, vacation pay, retroactive pay increases, and any other payments made by an employer, unless exempted. The term wages also includes the cash value of any asset that is given an employee as compensation for his/her services.

**Who must register with the Indiana Department of Workforce Development (DWD)?**

A new employer who is subject to UI by Indiana Code 22-4-7. Any employer who acquires an existing business (you cannot use the prior owner's account number – You must also apply for a new federal identification number with the Internal Revenue Service.

An entity change that occurs any time you change from one type of ownership to another. The change from a sole proprietor to a corporation or a partnership is a type of entity change. Changing stock ownership in a corporation is not an entity change. Report entity changes to DWD to determine if a new account is needed.

**How do I register?**

Once an employer is subject to the law he/she must file an application, State Form 2837, Report To Determine Status, with the agency. An individual employer account number will be assigned and the employer begins filing quarterly contribution reports (UC1), and quarterly wage reports (UC5). Failure to register does not relieve an employer of his/her responsibility to remit UI Taxes timely.

**What will be my rate and what do I pay?**

A new employer rate will be 2.7 percent for thirty-six (36) months, based on the fiscal year beginning July 1<sup>st</sup> and ending June 30. After the employer has 36 months experience with the agency he/she will qualify for a system calculation.

For the experienced employer Indiana has a variable tax rate based on each employer's individual unemployment account history and the past year's statewide unemployment activity.

Each employer will pay his assigned merit rate on the first \$7,000 of wages per employee, per year. Anything over \$7,000 is considered excess wages and excess wages are exempt from UI tax.

**My business is a corporation, and I am a corporate officer. Do I have to report the wages that I earn from my corporation?**

Your corporation is a legal entity that employs you. *Covered wages* that you earn from the corporation are the *wage credits* needed to file an application for *unemployment benefits*.

The amount of *unemployment benefits* available to you will depend on the wage credits you receive from the corporation and the conditions of your separation from employment.

**May I get UI coverage for my workers if I'm not a covered employer?**

Yes, if you do not qualify as a covered employer but want UI coverage for your workers, you may apply for voluntary coverage. If voluntary coverage is approved you must cover your employees for at least two years.

**What records do I have to keep?**

For Unemployment Insurance purposes, you must keep a record of:

- Beginning and ending date of each pay period.

- Total wages paid during each pay period.

- Number of employees on the 12<sup>th</sup> day of each month and total number of employees each quarter.

- Each employee's name, social security number and wages for each pay period.

- Date each employee was hired, re-hired or returned to work after a temporary lay-off.

- Date an employee was terminated and the cause of the termination.



**Why can't I treat my workers as independent contractors?**

The status of your workers is determined by the amount of control that you have over the manner in which they perform services for you. Generally, if you control the way the services are performed and have the right to discharge the worker, you are an employer.

The Act utilizes a three-part test, commonly referred to as the A-B-C test, to determine whether the employment relationship exists (IC 22-4-8-1). When applying the test the employment relationship will be found to exist unless and until it can be shown that the individual(s) performing the service(s) are, and have been:

- A. Free from direction and control
- B. Performing a service or services which are outside the usual course of the business
- C. Customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.